

**IOWA DEPARTMENT OF NATURAL RESOURCES
ADMINISTRATIVE ORDER**

IN THE MATTER OF:	ADMINISTRATIVE ORDER
IOWA LIMESTONE COMPANY	NO. 2011-AQ-06

TO: Iowa Limestone Company
Larry Reynolds
Assistant Plant Manager
800 River Drive
Alden, Iowa 50006

Iowa Limestone Company
Rich Paulzin
Plant Manager
800 River Drive
Alden, Iowa 50006

I. SUMMARY

This order requires you to timely report incidents of excess emissions, to minimize emissions during periods of excess emissions, to adopt a baghouse operation and maintenance plan, to have personnel become trained as certified opacity readers, and to pay a penalty of \$10,000.00, subject to your appeal rights stated in this order.

Any questions regarding this order should be directed to:

Relating to technical requirements:

Glenn Carper
Iowa Department of Natural Resources
Field Office No. 2
2300 15th Street S.W.
Mason City, Iowa 50401
Phone: 641/424-4073

Relating to legal requirements:

Anne Preziosi, Attorney for the DNR
Iowa Department of Natural Resources
7900 Hickman Road, Suite 1
Urbandale, Iowa 50322
Phone: 515/281-6243

Payment of penalty to:

Director of the Iowa DNR
Wallace State Office Building
502 East Ninth Street
Des Moines, Iowa 50319-0034

II. JURISDICTION

This administrative order is issued pursuant to the provisions of Iowa Code chapter 455B, Division II (air quality), and the rules promulgated or permits issued pursuant to that part; and Iowa Code section 455B.109 and 567 Iowa Administrative

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Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

III. STATEMENT OF FACTS

1. Iowa Limestone Company (Iowa Limestone) in Alden, Iowa, consists of three plants under common ownership and control. Plant #1 is the original facility at 800 River Drive in Alden. It manufactures agricultural lime products from locally mined limestone. Plant #2 was purchased in 1987 from American Cyanamid Company. It also manufactured agricultural lime products, and it is located about two miles east of Plant #1. Plant #2 now is used as a warehouse for Plant #1. Active manufacturing no longer occurs at Plant #2. Plant #3 was purchased from Iowa Mineral Processing in November 2003. It is located adjacent to Plant #1. Plant #3 also manufactures agricultural lime products. The subject of this order is emissions from Plant #1. However, similar emissions occurred from Plant #3 in 2004. Iowa Limestone was issued a Notice of Violation letter for those violations at that time, but further enforcement action was not taken (See Statement of Facts 3-5).

2. Iowa Limestone has failed to comply with opacity limits specified in its construction permits, has allowed excess emissions to occur unabated, and has failed to provide required verbal notification of an incident of excess emission. Further, Iowa Limestone has emission points with discharge styles (horizontal or downward) which do not conform to the emission point characteristics listed in its respective construction permits (vertical unobstructed).

3. In April 2004 a complaint was received about excess stack emissions from the dryer stack at Plant #3. DNR Field Office No. 2 investigated the complaint on April 13, 2004, and spoke with the assistant plant manager on site. The assistant plant manager admitted that the opacity was likely 40 or 50%. The permitted limit for the stack is 7%. The assistant plant manager stated that Iowa Limestone assumed that the former owner of the facility had left the baghouse in good shape, so Iowa Limestone did not check the bag house before starting processing. He said that Iowa Limestone did not have replacement bags on site and would have to order them. The following day, Cindy Garza of DNR Field Office No. 2 called the facility and advised facility personnel about the rules being violated by the facility, including the excess opacity, failure to report excess emissions, and maintenance and repair requirements. A list of the violations also was sent to Iowa Limestone. After reviewing the information on the violations, Iowa Limestone decided to shut down the dryer until repairs could be made.

4. On April 20, 2004, DNR Field Office No. 2 received a letter from Carl Lamberti, President of Iowa Limestone. The letter was intended to fulfill the requirement for written notification of excess emission, but Iowa Limestone did not

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admit that an excess emission occurred. The letter stated that new bags could not immediately be obtained, so Iowa Limestone had replaced the bags in the baghouse with used but serviceable bags from another facility. The letter stated that, "The facility will schedule more frequent maintenance inspections and bag replacement." (The three plants have a total of fifteen operating baghouses.)

5. An April 27, 2004, Notice of Violation letter was sent to Iowa Limestone regarding the dryer incident.

6. In July 2004 an inspection was conducted at the Plant #1 facility. Some emissions, not in violation of permit limits, were noted from three of the facility stacks. The facility was requested to perform maintenance on the baghouses associated with these stacks. Deficient bags were found in all three baghouses and were replaced. The inspection cover letter reminded the facility that control equipment must be maintained so as to minimize emissions.

7. On June 25, 2009, Glenn Carper of DNR Field Office No. 2 conducted inspections at all three Iowa Limestone plants. There were no problems at Plants #2 and #3; however, visible emissions were observed from three of the stacks at Plant #1. Formal opacity readings were conducted for these three stacks. Emission Point 2 (Process System – Permit No. 79-A-215-S5) had an opacity limit of 7%. The opacity observed at the time of the inspection was 29%. Emission Point 7 (Hammermills – Permit No. 73-A-179-S4) had an opacity limit of 7%. The opacity observed at the time of the inspection was 9%. Emission Point 9 (Old Dical Bin – Permit No. 85-A-130-S2) had an opacity limit of 7%. The opacity observed at the time of the inspection was 18%.

8. Plant personnel were not aware of the emissions from Emission Point 9, but they had been aware of the emissions from Emission Points 2 and 7 since Tuesday June 23, 2009. Verbal notification of the excess emissions had not been made to the DNR Field Office, as required. There also had been no attempt to limit the emissions from the stacks until repairs could be made (reducing hours of operation or limiting throughput). Repairs had been scheduled for Saturday, June 27, 2009. Further, two other emission points at the facility were determined not to be in compliance with the emission point characteristics listed in their construction permits. Emission Point 8 (Vaculoader Loadout System – Permit No. 81-A-057-S2) had a horizontal discharge, although its construction permit specifies a vertical unobstructed discharge. Emission Point 9 (Old Dical Bin – Permit No. 85-A-130-S2) had a downward discharge, although its construction permit specifies a vertical unobstructed discharge.

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IV. CONCLUSIONS OF LAW

1. Iowa Code section 455B.133 provides that the Environmental Protection Commission (Commission) shall establish rules governing the quality of air and emission standards. The Commission has adopted 567 IAC chapters 20-35 relating to air quality.
2. Pursuant to Iowa Code sections 455B.133 and 455B.134(3)(a), 567 IAC 22.1(1) requires that a person who constructs, installs, reconstructs or alters equipment or control equipment must first obtain an air quality construction permit from the DNR, unless an exemption applies.
3. Pursuant to Iowa Code section 455B.133, 567 IAC 22.3(3) authorizes permits to be issued subject to written conditions. The above facts indicate violations of air quality construction permits issued to Iowa Limestone. Iowa Limestone failed to comply with the opacity limits specified in its construction permits for Emission Points 2, 7, and 9. Further, Iowa Limestone failed to comply with the requirements for constructing Emission Points 8 and 9.
4. Pursuant to Iowa Code section 455B.133, 567 IAC 23.3(2)"d" was adopted, which states that no person shall allow, cause or permit the emission of visible air contaminants into the atmosphere from any equipment, internal combustion engine, premise fire, open fire or stack, equal to or in excess of 40% opacity or that level specified in a construction permit. 567 IAC 23.1(2)"bbb" adopts by reference 40 CFR Part 60 Subpart OOO which limits the opacity from a stack on an affected piece of equipment to 7%. Iowa Limestone failed to comply with these opacity requirements for Emission Points 2, 7, and 9.
5. Pursuant to Iowa Code section 455B.133, 567 IAC 24.2(1) was adopted, which specifies that control equipment must be maintained and operated at all times in a manner consistent with good practice for minimizing emissions. 567 IAC 24.1(4) sets out that any case of excess emissions must be remedied in an expeditious manner or the process generating the emissions shall be shut down in a reasonable amount of time. An expeditious manner is the time necessary to determine the cause of the excess emissions and to correct it within a reasonable period of time. A reasonable period of time is eight hours plus the period of time required to shut down the process without damaging the process equipment or control equipment. Iowa Limestone did not act appropriately to curtail its excess emissions, as required.
6. Pursuant to Iowa Code section 455B.133, 567 IAC 24.1(2) was adopted, which requires that an incident of excess emission be orally reported

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to the DNR Field Office within eight hours, or at the beginning of the next working day. Iowa Limestone was aware of the emissions from two of the emission points on Tuesday June 23, 2009 but did not make the necessary verbal notification to the Mason City Field Office.

7. Pursuant to Iowa Code section 455B.133, 567 IAC 24.2(2) was adopted, which allows the DNR to require a maintenance plan for equipment or control equipment where in the judgment of the Director a continued pattern of excess emissions is indicative of inadequate operation and maintenance. The maintenance plan shall include the following: a. a complete preventive maintenance schedule, including identification of the persons responsible for inspecting, maintaining and repairing control equipment, a description of the items or conditions that will be inspected, the frequency of these inspections or repairs, and an identification of the replacement parts which will be maintained in inventory for quick replacement; b. an identification of the equipment and air pollution control equipment operating variables that will be monitored in order to detect a malfunction or failure, the normal operating range of these variables, and a description of the method of monitoring and surveillance procedures; and c. a contingency plan for minimizing the amount and duration of any excess emissions to the maximum extent possible during periods of such emissions. Iowa Limestone has failed to operate and maintain its equipment in compliance with DNR's rules. Taking into account its past history of violations, this failure has resulted in a continued pattern of excess emissions. Therefore, the establishment of a maintenance plan is required.

V. ORDER

THEREFORE, DNR orders Iowa Limestone to do the following:

1. Comply with all air quality construction permit requirements;
2. Timely report incidents of excess emissions, within eight hours or at the beginning of the following working day;
3. Minimize emissions during periods of excess emissions;
4. By May 15, 2011, a maintenance plan shall be submitted to DNR Field Office No. 2 for approval, pursuant to 567 IAC 24.2(2);
5. By no later than May 1, 2011, have at least two facility personnel who are certified opacity readers; and
6. Pay a penalty of \$10,000.00 within 60 days of the date this order is signed by the Director.

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VI. PENALTY

Pursuant to the provisions of Iowa Code section 455B.109 and 567 IAC chapter 10, which authorize the Director to assess administrative penalties, a penalty of \$10,000.00 is assessed by this administrative order. The penalty must be paid within 60 days of the date this order is signed by the Director. The administrative penalty is determined as follows:

Iowa Code section 455B.146 authorizes the assessment of civil penalties of up to \$10,000.00 per day of violation for the air quality violations involved in this matter. More serious criminal sanctions are also available pursuant to Iowa Code section 455B.146A.

Iowa Code section 455B.109 authorizes the Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties through 567 IAC chapter 10. Pursuant to this rule, DNR has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an administrative order with a penalty. The administrative penalty assessed by this order is determined as follows:

Economic Benefit – Iowa Limestone has achieved an economic benefit from its violations. The facility has failed to maintain its emission units in a manner designed to minimize excess emissions, as required. It is estimated that the facility has saved at least \$3,000.00 by avoiding the timely and appropriate replacement of baghouse bags at Plant #1 so as to minimize emissions. Therefore, \$3,000.00 is assessed for this factor.

Gravity of the Violation – One of the factors to be considered in determining the gravity of a violation is the amount of penalty authority by the Iowa Code for that type of violation. Substantial penalties are authorized by statute. Despite the high penalties authorized, DNR has determined at this time that the most equitable and efficient means of resolving this matter is through the issuance of an administrative order. Failure to comply with air quality construction permit requirements and failure to operate in a manner designed to minimize excess emissions, including the timely reporting of excess emissions, undermines the construction permitting and air quality compliance program for the State of Iowa. Therefore, \$3,000.00 is assessed for this factor.

Culpability – Iowa Limestone has a duty to remain knowledgeable of DNR's requirements and to be alert to the probability that its conduct is subject to DNR's requirements. Iowa Limestone has a history of non-compliance with air quality requirements. Therefore, \$4,000.00 is assessed for this factor.

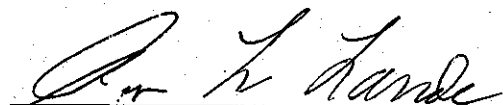
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VII. APPEAL RIGHTS

Pursuant to Iowa Code section 455B.138 and 567 IAC 7.4(1), a written notice of appeal to the Commission may be filed within 30 days of receipt of this order. The notice of appeal should be filed with the Director of DNR and must identify the specific portion or portions of this order being appealed and include a short and plain statement of the reasons for appeal. A contested case hearing will then be commenced pursuant to Iowa Code chapter 17A and 561 IAC chapter 7.

VIII. NONCOMPLIANCE

Failure to comply with this administrative consent order, including failure to timely pay any penalty, may result in the imposition of further administrative penalties or referral to the attorney general to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.146. Compliance with Section "V. Order" of this administrative order constitutes full satisfaction of all requirements pertaining to the specific violations described in Section "IV. Conclusions of Law" of this administrative order.



Roger L. Lande, Director
Iowa Department of Natural Resources

Dated this 22nd day of
March, 2011.

Facility No. 42-04-001; Anne Preziosi; DNR Field Office 2; VII.C.2